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15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

17 ENEID AMPARAN, on behalf of himself and  
18 others similarly situated,

19 Case No.: CV 07-04498 JW  
20 CLASS ACTION

21 Plaintiff,

22 vs. **Rule 26(f) Report**

23 PLAZE HOME MORTGAGE, INC. and DOES  
24 1 through 10 inclusive.;

25 Defendants.

26 Following a conference of counsel on January 4, 2008, Plaintiff, Eneid  
27 Amparan (“Plaintiff”) and Defendant, Plaza Home Mortgage, Inc. (“Defendant”)  
28 submit this written report pursuant to Fed. R. Civ. P. 26(f) and Local Rule 16-9.

1 Where appropriate, the parties incorporate by reference herein the Joint Case  
2 Management Statement (the "CMS") being filed herewith.  
3

4 **I. FACTUAL SUMMARY OR ANALYSIS OF THE CASE**

5 **A. PLAINTIFF'S STATEMENT.**

6 Plaintiff incorporates by reference his statement in paragraph 2 of the CMS.

7 **B. DEFENDANT'S STATEMENT.**

8 Plaintiff is sophisticated in real estate transactions and has been a licensed  
9 real estate sales person in California since February of 2002. Defendant is  
10 informed and believes Plaintiff had ties to the brokerage, escrow and/or title  
11 company used on the transaction that should have been, but was not, disclosed.  
12 Defendant is further informed and believes Plaintiff engaged in other malfeasance  
13 during the loan process.

14 The loan documents at issue were vetted prior to use by state and federal  
15 Truth in Lending Act (hereinafter TILA) compliance specialists. These loan  
16 documents at issue are clear and concise and otherwise comply with TILA  
17 requirements.

18 Defendant is a whole seller of loans. Defendant's interaction related to this  
19 loan was with Plaintiff's third party broker and not Plaintiff the borrower. This  
20 loan product was introduced, selected and reviewed with Plaintiff by virtue of  
21 Plaintiff's interaction with Plaintiff's third party broker and not Defendant.

22 Defendant denies any and all allegations in the first amended complaint  
23 including, without limitation, the allegations that this loan product violated the  
24 TILA and the subsequent claims that are tethered thereto. Defendant further denies  
25 and objects to the appropriateness of a class action for the alleged claims and forms  
26 of relief requested.

27       ///  
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1           **II. REPORT ON FED. R. CIV. P. 26(f) ISSUES.**

2           **A. INITIAL DISCLOSURES.**

3           The parties have agreed that initial disclosures will be exchanged pursuant to  
4 Fed. R. Civ. P. 26(a)(1) within the time prescribed in this Court's Scheduling  
5 Order.

6           **B. DISCOVERY NEEDED.**

7           Plaintiff will be seeking discovery related to Defendant's conduct in  
8 connection with the formulation, development, implementation and marketing of  
9 adjustable rate mortgages. Defendant will be seeking discovery related to the  
10 merits of Plaintiff's individual claim, his adequacy to serve as a representative of  
11 the putative class, the appropriateness of the class action vehicle for the claims and  
12 relief at issue, and further defenses. The parties further agree that initial discovery  
13 should be directed to class certification issues, but acknowledge the potential for  
14 overlap between discovery related to class certification and that related to the  
15 merits. To the extent that the parties disagree regarding the scope of discovery in  
16 the pre-certification phase of the case, they will seek additional guidance from the  
17 court.

18           **C. DISCOVERY OF ELECTRONICALLY STORED INFORMATION.**

19           The parties have not yet met and conferred regarding the production of  
20 Electronically Stored Information in accordance with the Federal Rules of Civil  
21 Procedure, but will do so shortly.

22           **D. PRIVILEGE OR WORK PRODUCT ISSUES.**

23           At present, the parties are not aware of any issues relating to claims of  
24 privilege or work product. Protective orders may be necessary to preserve privacy  
25 rights and proprietary rights of the parties. To the extent such issues arise in the  
26 future, the parties will confer to address them and, if necessary, bring them to the  
27 attention of the Court.

1                   **E. LIMITATIONS ON DISCOVERY.**

2                   Plaintiff requests permission to take a maximum of 10 fact witness  
 3 depositions pursuant to Fed. R. Civ. P. 30(a)(2). Plaintiff requests that the parties  
 4 be permitted to serve 75 interrogatories.

5                   Defendant believes that only limited discovery shall be allowed at the outset  
 6 to explore the appropriateness of the class action vehicle for these claims. This  
 7 may include a limited amount of written and oral discovery pursuant to the Federal  
 8 Rules of Civil Procedure. Counsel for the parties will endeavor to set reasonable  
 9 boundaries for such discovery. After the issue of certification is finalized, counsel  
 10 for the parties will revisit the issue of the necessary breadth and depth of discovery.  
 11 At both stages, pre and post certification, counsel will seek guidance from the  
 12 court, if necessary.

13                   **F. OTHER DISCOVERY DEADLINES**

14                   At this time, the parties propose the following pre-trial schedule, without  
 15 prejudice to seek variations here from upon stipulation and/or a showing of good  
 16 cause to the court:

Pretrial or Trial Event	Plaintiff's Requested Deadline	Defendant's Requested Deadline
Deadline to Amend Pleadings/Add Parties	May 23, 2008	No Objection at this time
Last day to file Motion for Class Action Certification and Precertification motions, including without limitation, judgment on the pleadings, dismissal motions and motions for summary adjudication/judgment		July 21, 2008

Pretrial or Trial Event	Plaintiff's Requested Deadline	Defendant's Requested Deadline
Motion For Class Certification Hearing Date	August 20, 2008	September 26, 2008
Post Certification Status Conference		September 5, 2008
Non-Expert Discovery Cut-Off Date	February 1, 2009	To be determined post certification
Opening Expert Witness Disclosure [See F.R.Civ.P. 26(a)(2)]	April 1, 2009	To be determined post certification
Rebuttal Expert Witness Disclosure	May 1, 2009	To be determined post certification
Expert Discovery Cut-Off Date	June 22, 2009	To be determined post certification
Dispositive Motions Due	July 22, 2009	To be determined post certification
Parties to meet and confer to prepare joint final pretrial conference statement and proposed order and coordinated submission of trial exhibits and other material		Parties meet and confer following resolution of class certification motion
Filing Joint Pretrial Conference Statement and Proposed Order		Parties meet and confer following resolution of class certification motion
Lodging exhibits and other trial materials		Parties meet and confer following resolution of class certification motion
Last day to serve and file briefs on disputed issues of law, including procedural and evidentiary issues		Parties meet and confer following resolution of class certification motion
Serve and file requested <i>voir dire</i> , jury instructions and forms of verdict		Parties meet and confer following resolution of class certification motion

Pretrial or Trial Event	Plaintiff's Requested Deadline	Defendant's Requested Deadline
Serve and file statements designating deposition excerpts, form interrogatory answers and responses to requests for admission to be offered at trial other than for impeachment or rebuttal	Parties meet and confer following resolution of class certification motion	
Last day to meet and confer regarding objections to evidence	Parties meet and confer following resolution of class certification motion	
Final Pretrial Conference and Hearing on Motions in Limine	Parties meet and confer following resolution of class certification motion	
Trial Date	Parties meet and confer following resolution of class certification motion	

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14 **G. OTHER ORDERS.**

15 At present, the parties do not propose that this Court enter any other orders  
 16 under Fed. R. Civ. P. 16 or 26(c). The parties expect that a confidentiality order  
 17 may be appropriate. If the need for a confidentiality order arises, the parties intend  
 18 to file an appropriate motion seeking its entry.

19 DATED: February 11, 2008

20 Respectfully submitted,

21 **ENEID AMPARAN**  
 22 By his attorneys,

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25 DATED: February 11, 2008

26 Defendant, PLAZA HOME MORTGAGE,  
27 INC

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